

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Bargnes et al. Confirmation No.: 4629
Serial No.: 10/705,359 Group Art Unit: 3623
Filed: November 10, 2003 Examiner: Chong Cruz, Nadja N.
Attorney Docket No.: IN-5398CIP

Title: METHOD OF DETERMINING AN EFFICIENCY OF A
REPAIR PROCESS

**REPLY TO NOTIFICATION OF
NON-COMPLIANT APPEAL BRIEF**

**Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450**

Dear Sir:

In response to the Notification of Non-Compliant Appeal Brief dated August 10, 2009, please accept the Substitute Appeal Brief and consider the following remarks.

The Patent Appeals Center notes that the Argument section of the Appeal Brief filed on July 13, 2009 does not present headings corresponding to each ground of rejection on appeal. Applicant apologizes for this error and has made the appropriate corrections in the Substitute Appeal Brief filed concurrently herewith.

Specifically, 37 CFR 41.37(c)(1)(vii) sets forth the requirements regarding the presentation of arguments and states that arguments must be presented under separate headings for each ground of rejection. According to 37 CFR 41.37(c)(1)(vii), “[f]or each ground of rejection applying to two or more claims, the claims may be argued separately or as a group . . . Claims argued as a group should be placed under a subheading identifying the claims by number.” As now set forth in the ARGUMENT

section of the Substitute Appeal Brief, Applicant has set forth subheadings, identifying the claims by number, for each group of claims being rejected.

Applicant has also revised the STATUS OF AMENDMENTS section to note certain documents that were filed subsequent to a final rejection.

It is respectfully submitted that the Appeal Brief filed on July 13, 2009 has been corrected and the Substitute Appeal Brief is in proper form for advancing the appeal.

No fees are believed to be due at this time. However, the Commissioner is authorized to charge our Deposit Account No. 08-2789 in the name of Howard & Howard Attorneys PLLC for any fees or credit the account for any overpayment for this matter.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS PLLC

Dated: September 10, 2009

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